



RNAO

Registered Nurses' Association of Ontario
L'Association des infirmières et infirmiers
autorisés de l'Ontario

Speaking out for health. Speaking out for nursing.

**RNAO Submission on Bill 171: Health System
Improvements Act**

to Standing Committee on Social Policy

Registered Nurses' Association of Ontario

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The Registered Nurses' Association of Ontario (RNAO) is the professional organization for registered nurses who practice in all roles and sectors across Ontario. Our mandate is to advocate for healthy public policy and for the role of nursing in shaping and delivering health services. RNAO is pleased to provide this submission on Bill 171, *An Act to improve health systems by amending or repealing various enactments and enacting certain Acts*, 2006, to the Standing Committee on Social Policy.

We will limit our submission to Schedules B, F, K, M, and Q of the Bill.

Schedule B: Amendments Concerning Health Professions, Section 14

While we welcome the title protection for nurse practitioners (NPs) provided in section 14(1)(1), the proposed changes to the *Nursing Act* fall far short of the proposed changes to the *Nursing Act*, the *Extended Certificate of Registration* regulation, and the *Controlled Acts* regulation proposed by the College of Nurses of Ontario (CNO), the regulatory body for nursing in Ontario. We urge the government to act immediately on the advice of CNO and enact the changes that are essential to improving client care, enhancing access to health services, and providing further protection to the public.

Bill 171 does not further the implementation of CNO's proposed changes to the RN Extended Class (RN(EC)) registration, which would regulate nurse practitioners holding specialty certificates in primary health care, paediatrics, adult, and anaesthesia.

The changes proposed by CNO would incorporate Acute Care Nurse Practitioners into the Extended Class and enable all RN(EC)s to function autonomously without medical directives or delegation, sharpening lines of accountability. The proposed changes would allow RN(EC)s to use their knowledge, skills, and experience to a greater extent, and to practice to their full scope to better serve the needs of Ontarians.

The proposed change to the *Nursing Act* in Bill 171 with respect to prescriptive authority falls far short of open prescribing. It proposes moving the process from a drug-specific list to one of categories of drugs. In the end, this may prove to be more time consuming and challenging to implement than the current model.

CNO proposes open prescribing for RN(EC)s. In a context of rapid technological change and evolving roles, there is compelling evidence that the current list-based approval process for RN(EC) diagnostic and prescriptive authority is untenable. The current list-based system results in treatment delays, unnecessary duplication, and misallocation of resources. Open prescribing for diagnostic tests and pharmaceuticals already exist in several Canadian jurisdictions, including Saskatchewan, Manitoba and British Columbia.^{1 2} As of 2000 in the United States, there were 25 states that gave full prescriptive authority to nurse practitioners, including for controlled substances³.

We recommend that the CNO legislative amendments, which appear as Appendix 1,⁴ be incorporated into this Bill.

RNAO has also proposed the following expansion of all RNs' scope of practice:

1. Communicating to the individual or his or her personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis;
2. Setting or casting a fracture of a bone or a dislocation of a joint;

3. Applying a form of energy prescribed by the regulations under this Act (i.e. RHPA); and,
4. Dispensing a drug as defined in subsection 117 (1) of the Drug and Pharmacies Regulation Act.

RNs should have the authority to perform these acts within nursing scope of practice based on knowledge, skill, and experience. This will ensure timely access to care; reduce the need for delegation; and, support progression of care management in a timely way.

Schedule F: Health Protection and Promotion Act

We welcome the amendments to Sections 1, 26, 30, 34, 37, and 38 that incorporate RN(EC)s into the *Act*.

However, we urge the government to heed the recommendation of the Campbell Report to incorporate the precautionary principle into the *Act*.⁵ We would recommend that the precautionary principle be incorporated in the duties of Boards of Health into Part II, Section 4 of the *Act*.

Schedule K: Ontario Agency for Health Protection and Promotion Act, 2006

RNAO continues to support the establishment of the Ontario Agency for Health Protection and Promotion, and welcomes this legislation as the next step in this process. We have the following suggested amendments to the Bill, which will strengthen the legislation.

Purpose

As "health disparities are the number one health problem in the country,"⁶ it is essential that the purpose of this Act should include reducing health inequities by addressing the social determinants of health across sectors.

We recommend that that the purpose of the Act be amended in the following manner, with the additions in italics.

The purpose of this Act is to enhance the protection and promotion of the health of Ontarians *and reduce health inequities* through the establishment of an agency to provide scientific and technical advice and support to those working *across sectors* to protect and improve the health of Ontarians and to carry out and support activities such as *population health assessment*, public health research, surveillance, epidemiology, planning, and evaluation.

Objects

In keeping with previous submissions on the necessity of integrating the social and economic determinants of health into the Ontario public health mandate⁷ and specifically into the mission⁸ of the Ontario Agency for Health Protection and Promotion, RNAO suggests the following revisions to the objects which are italicized:

- 6 (a) to provide scientific and technical advice and support to the health care system and the Government of Ontario in order to protect and promote the health of Ontarians *and reduce health inequities*;
- (b) to develop, disseminate and advance public health knowledge, best practices, and research in the areas of *population health assessment*, infectious diseases, health promotion, chronic diseases, injury prevention, and environmental health;

(c) to inform and contribute to policy development processes of the health care system and *across sectors within* the Government of Ontario through the provision of advice and impact analysis of public health issues;

(d) to develop, collect, use, analyse and disclose data, including *population health*, surveillance and epidemiological data, across sectors, including human health, environmental, animal and agricultural sectors, *education, community and social services, criminal justice, housing, and employment*, in a manner that informs and enhances *healthy public policy* and public health planning, evaluation and action;

(e) to undertake, promote and co-ordinate public health research in co-operation with academic and research experts *as well as the community*;

(f) to provide *education* and professional development for public health professionals, scientists, researchers, and *policymakers across sectors*;

Schedule M: Regulated Health Professions Act

We have the following concerns about the changes to this *Act*.

We are concerned that the proposed changes to *RHPA* section 23 (2) 6 would result in personal health information of health providers becoming publicly available. As a result, we would recommend that this clause revert to the wording in the current legislation and read:

(6) the result of every disciplinary and incapacity proceeding;

We are also concerned about the expansion of mandatory reporting by a facility operator of sexual abuse by a health professional to include incapacity or incompetence. We caution that mandatory reporting of incapacity would reduce the likelihood that health professionals would disclose incapacity issues to their employers and would therefore reduce access to assistance through such resources as Employee Assistance plans. We therefore recommend that incapacity be removed from the proposed amendment to Section 85.2 of the *RHPA*.

Schedule Q: Psychotherapy Act

RNAO supports the establishment of this Act and the public protection that it provides. However, we would ask for an amendment to the proposed Section 8(1) so that other professionals who have access to the Psychotherapy Act, including physicians, occupational therapists and social workers, can use the title psychotherapist or registered mental health therapist.

¹ College of Registered Nurses of British Columbia (2006). *Scope of Practice for Nurse Practitioners (Adult): Standards, Limits and Conditions*.

² College & Association of Registered Nurses of Alberta (2004). *Prescribing and Distributing Guidelines for Nurse Practitioners*.

³ National Center for Health Workforce Analysis (2004). *A Comparison of Changes in the Professional Practice of Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives: 1992 and 2000*. Rockville, MD: Health Resources and Services Administration, pp. 73-76.

⁴ College of Nurses of Ontario (2006). *Proposed Changes to the Nursing Act, 1991*.

⁵ The Sars Commission. (2006). *Spring of Fear Executive Summary Volume 1*. Toronto: Author, 30.

⁶ Health Council of Canada. (2005). *Health Care Renewal in Canada: Accelerating Change*. Toronto: Author, 9.

⁷ Lefebvre, S., Warren, C., Lacle, S. & Sutcliffe, P. (2006). *A Framework to Integrate Social and Economic Determinants of Health into the Ontario Public Health Mandate: A Discussion Paper*. Sudbury: Sudbury & District Health Unit.

⁸ Community Health Nurses' Initiatives Group/Registered Nurses' Association of Ontario. (2005). *Ontario's New Public Health Agency: A Nursing Response*. Submission to the Agency Implementation Task Force. Toronto: Author.

**Appendix 1: College of Nurses of Ontario's Proposed Changes
to the *Nursing Act*, 1991**

Proposed Changes to the Nursing Act, 1991

S.O. 1991, CHAPTER 32

Notice of Currency:* This document is up to date.

*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the Table of Public Statutes – Legislative History Overview.

Amended by: 1997, c. 9, ss. 1-3; 1998, c. 18, Sched. G, s. 37.

With the Exception of Section 5 (1), only those sections of the Act with proposed changes are included in this document. Section 5 (1) has been included to facilitate reader understanding of the proposed changes to nurse practitioner / registered nurse extended class authorization mechanisms respecting controlled acts.

Proposed Changes to the Nursing Act, 1991

S.O. 1991, CHAPTER 32

Notice of Currency:* This document is up to date.

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Amended by: 1997, c. 9, ss. 1-3; 1998, c. 18, Sched. G, s. 37.

With the Exception of Section 5 (1), only those sections of the Act with proposed changes are included in this document. Section 5 (1) has been included to facilitate reader understanding of the proposed changes to nurse practitioner / registered nurse extended class authorization mechanisms respecting controlled acts.

Authorized acts

4. In the course of engaging in the practice of nursing, a member **other than one who holds an extended class certificate of registration as a registered nurse**, is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. performing a prescribed procedure below the dermis or a mucous membrane.
2. Administering a substance by injection or inhalation.
3. Putting an instrument, hand or finger,
 - i. beyond the external ear canal,
 - ii. beyond the point in the nasal passages where they normally narrow,
 - iii. beyond the larynx,
 - iv. beyond the opening of the urethra,
 - v. beyond the labia majora,
 - vi. beyond the anal verge, or
 - vii. into an artificial opening into the body. 1991, c. 32, s. 4.

Additional requirements for authorized acts

5. (1) A member shall not perform a procedure under the authority of section 4 unless,
- (a) the performance of the procedure by the member is permitted by the regulations and the member performs the procedure in accordance with the regulations; or
 - (b) the procedure is ordered by a person who is authorized to do the procedure by section 5.1 of this Act or by the *Chiropody Act, 1991*, the *Dentistry Act, 1991*, the *Medicine Act, 1991* or the *Midwifery Act, 1991*. 1991, c. 32, s. 5 (1); 1997, c. 9, s 1.

Authorized acts by certain registered nurses

~~5.1 (1)~~ In the course of engaging in the practice of nursing, a member ~~who is a registered nurse and who holds an extended certificate of registration as a registered nurse in accordance with the regulations~~ is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following: ~~acts in addition to those the member is authorized to perform under section 4:~~

- ~~1. Communicating to a patient or to his or her representative a diagnosis made by the member identifying, as the cause of the patient's symptoms, that can be identified from,
 - i. the patient's health history,
 - ii. the findings of a comprehensive health examination, or
 - iii. the results of any laboratory tests or other tests and investigations that the member is authorized to order or perform.~~

~~2. Ordering the application of a form of energy prescribed by the regulations under this Act.~~

~~3. Prescribing a drug designated in the regulations.~~

~~4. Administering, by injection or inhalation, a drug that the member may prescribe under paragraph 3.~~

- 1. Communicating a diagnosis identifying a disease or disorder as the cause of a person's symptoms.
- 2. Performing a procedure on tissue below the dermis or below the surface of a mucous membrane.
- 3. Setting or casting a fracture of a bone or a dislocation of a joint.
- 4. Administering a substance by injection or inhalation.
- 5. Putting an instrument, hand or finger,
 - i. beyond the external ear canal,
 - ii. beyond the point in the nasal passages where they normally narrow,
 - iii. beyond the larynx,
 - iv. beyond the opening of the urethra,
 - v. beyond the labia majora,
 - vi. beyond the anal verge, or
 - vii. into an artificial opening into the body.
- 6. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.
- 7. Prescribing, dispensing, selling or compounding a drug.

Consultation

~~(2) A member is not authorized to communicate a diagnosis under paragraph 1 of subsection (1) unless the member has complied with the prescribed standards of practice respecting consultation with members of other health professions. 1997, c. 9, s. 2.~~

Restricted titles

11. (1) No person other than a member shall use the title “nurse”, “**nurse practitioner**”, “registered nurse”, “**registered nurse extended class**” or “registered practical nurse”, a variation or abbreviation or an equivalent in another language. 1991, c. 32, s. 11 (1); 1998, c. 18, Sched. G, s. 37 (3).

Exception

(2) Despite subsection (1), a person may use the title “Christian Science nurse” or “~~graduate nurse~~”, a variation or abbreviation or an equivalent in another language.

Exception

~~(4) Despite subsection (3), a member who is a practical nurse may use the title “nursing assistant” or a variation or abbreviation of it for three years after this Act comes into force.~~

Representations of qualification, etc.

(5) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a nurse, registered nurse, **nurse practitioner**, or practical nurse or in a specialty of nursing.

Regulations

14. (1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) prescribing procedures for the purpose of paragraph 1 of section 4;

(b) permitting a member to perform a procedure under clause 5 (1) (a) and governing the performance of the procedure including, without limiting the foregoing, prescribing the class of members that can perform the procedure and providing that the procedure may only be performed under the authority of a prescribed member or a member of a prescribed class;

(c) prescribing the forms of energy that a member may order for the purpose of paragraph ~~2-6~~ of section 5.1 ~~(4)~~ and prescribing the purpose for which, or the circumstances in which, the form of energy may be applied **or ordered**;

~~(d) designating the drugs that a member may prescribe for the purpose of paragraph 3 of subsection 5.1 (1) and prescribing the circumstances in which a member may prescribe the drugs;~~

~~(e) prescribing standards of practice respecting the circumstances in which registered nurses who hold an extended certificate of registration should consult with members of other health professions. 1991, c. 32, s. 14; 1997, c. 9, s. 3 (1).~~

Incorporation by reference

(2) A regulation under clause ~~(e)~~ **(b) or (c)** may adopt by reference, in whole or in part and with such changes as may be necessary, any document or publication and may require compliance with the document or publication.

Transition before Act in force

~~**16.** (1) The transitional Council is the Council of the~~

College of Nurses of Ontario as it exists from time to time between the 25th day of November, 1991 and the day this Act comes into force.

Powers of transitional Council

(2) After the 25th day of November, 1991 but before this Act comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

Powers of Minister

(4) The Minister may,

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4). 1991, c. 32, s. 16.

Transition after Act in force

17. (1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 9 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 9 (1) or until one year has elapsed, whichever comes first.

~~Terms of members of transitional Council~~

~~(2) The term of a member of the transitional Council shall continue for as long as the transitional Council is deemed to be the Council of the College.~~

Vacancies

(3) The Lieutenant Governor in Council may appoint persons to fill vacancies on the transitional Council. 1991, c. 32, s. 17.